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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,031	07/25/2003	Gopala Pillai	KMI010USU	3706

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EXAMINER

ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,031

Applicant(s)

PILLAI ET AL.

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

The abstract of the disclosure is objected to because it exceeds the 150 limit and contains legal phraseology such as: "means" and "said". Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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Claim Objections

Claims 2, 10, 15, 16, 18, and 19 are objected to because of the following informalities:

It is suggested that in:

Claim 2, line 2, before "...comprises..." insert --said appendage to said body--.

Claim 2, line 3, delete "magnet" and insert --magnetic--.

Claim 10, line 5, delete "of" and insert --on--.

Claim 15, line 6, before "...corresponding..." insert --on said appendage--.

Claim 15, line 10, delete "magnet" and insert --magnetic--.

Claim 16, lines 2 and 4, delete "element" and insert --elements--.

Claim 18, line 1, delete "16" and insert --17--.

Claim 19, line 9, before "...corresponding..." insert --on said appendage--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 1 recites the limitations "the end", "said respective planar surfaces", and "the rotational and linear movement" in lines 5, 9, and 10. There is insufficient antecedent basis for these limitations in the claim.

Claim(s) 2-4, 8, 9, and 12-14 depend from rejected claim(s) 1 and include all of the limitations of claim(s) 1 thereby rendering these dependent claim(s) indefinite.

Claim 5 recites the limitation "said magnetic elements" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 6 and 7 recite the limitation "said ribs" in lines 1 and 2, respectively. There is insufficient antecedent basis for this limitation in the claims.

Claim 10 recites the limitations "said ribbed element" and "said ribs" in lines 1-4, 6, and 7. There is insufficient antecedent basis for these limitations in the claim.

Claims 11 and 17 recite the limitations "the surface", "said recess", and "the upper portion" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claims.

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Claim 15 recites the limitations "the end", "said respective planar surfaces", and "the rotational and linear movement" in lines 5, 9, and 13. There is insufficient antecedent basis for these limitations in the claim.

Claim 16 recites the limitation "said ribs" in lines 6 and 7. There is insufficient antecedent basis for this limitation in the claim.

Claim(s) 18 depends from rejected claim(s) 16 and includes all of the limitations of claim(s) 16 thereby rendering this dependent claim(s) indefinite.

Claim 19 recites the limitations "the end", "said respective planar surfaces", "the rotational and linear movement", "each of said appendages", "said associated body", and "said toy" in lines 8, 9, 13, 14, 16, and 17. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 13-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,980,260 to Caputi in view of U.S. Patent No.

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5,380,233 to Numoto and U.S. Patent Application Publication No. 2003/0171062 A1 to Ruiz Gonzalez.

Caputi discloses the claimed invention except for having a means for limiting the rotational and linear movement of the appendage relative to the body comprised of a pair of complementary ribbed elements disposed on the planar surfaces, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body; the magnetic elements are disposed within the planar surfaces of the body and appendage; and wherein the ribs are approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm.

However, Numoto teaches an attachment means for attaching appendages to a figure that limit the rotational and linear movement of the appendage relative to the body, and is comprised of a pair of complementary ribbed elements, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body (see fig. 4, and respective portions of the specification). Ruiz Gonzalez teaches a toy figure (1) comprising magnetic elements (3, 4) that are disposed within the planar surfaces of the body and the elements configured to be attachable to the body (see figs. 2-5, and respective portions of the specification).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toy of Caputi, in view of Numoto and Ruiz

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Gonzalez, such that it would provide the toy of Caputi with the concept of the aforementioned limitations for the purpose of providing a stronger and more secure attachment means for the appendages and body of the toy.

Additionally, it would have been an obvious matter of design choice to modify the size of the ribs to be approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Furthermore, there is no criticality for these limitations anywhere in the specification of the present invention (see pgs. 13 and 14, lines 24-26 and 1, respectively).

Claims 1-10, 13-16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,375,604 to Alonso in view of U.S. Patent No. 5,380,233 to Numoto and U.S. Patent Application Publication No. 2003/0171062 A1 to Ruiz Gonzalez.

Alonso discloses the claimed invention except for having a means for limiting the rotational and linear movement of the appendage relative to the body comprised of a pair of complementary ribbed elements disposed on the planar surfaces, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body; the magnetic elements are disposed

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within the planar surfaces of the body and appendage; wherein the ribs are approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm; and wherein the diameter of the planar surfaces of the body and appendage is approximately 21mm and 19mm, respectively.

However, Numoto teaches an attachment means for attaching appendages to a figure that limit the rotational and linear movement of the appendage relative to the body, and is comprised of a pair of complementary ribbed elements, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body (see fig. 4, and respective portions of the specification). Ruiz Gonzalez teaches a toy figure (1) comprising magnetic elements (3, 4) that are disposed within the planar surfaces of the body and the elements configured to be attachable to the body (see figs. 2-5, and respective portions of the specification).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toy of Alonso, in view of Numoto and Ruiz Gonzalez, such that it would provide the toy of Alonso with the concept of the aforementioned limitations for the purpose of providing a stronger and more secure attachment means for the appendages and body of the toy.

Additionally, it would have been an obvious matter of design choice to modify the size of the ribs to be approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm, and to modify the diameter of the planar surfaces of the body and appendage to be approximately 21mm and 19mm, respectively, since

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such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Furthermore, there is no criticality for these limitations anywhere in the specification of the present invention (see pgs. 13 and 14, lines 24-26 and 1-4, respectively).

Claims 1-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,464,146 to McCurdy in view of U.S. Patent No. 5,380,233 to Numoto and U.S. Patent Application Publication No. 2003/0171062 A1 to Ruiz Gonzalez.

McCurdy discloses the claimed invention except for having a means for limiting the rotational and linear movement of the appendage relative to the body comprised of a pair of complementary ribbed elements disposed on the planar surfaces, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body; the magnetic elements are disposed within the planar surfaces of the body and appendage; wherein the ribs are approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm; and wherein the diameter of the planar surfaces of the body and appendage is approximately 21mm and 19mm, respectively.

However, Numoto teaches an attachment means for attaching appendages to a figure that limit the rotational and linear movement of the appendage relative to the

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body, and is comprised of a pair of complementary ribbed elements, wherein one set of ribbed elements are comprised of beveled raised elements and the other set of ribbed elements are comprised of beveled recessed elements that engage each other when the appendage is attached to the body (see fig. 4, and respective portions of the specification). Ruiz Gonzalez teaches a toy figure (1) comprising magnetic elements (3, 4) that are disposed within the planar surfaces of the body and the elements configured to be attachable to the body (see figs. 2-5, and respective portions of the specification).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the toy of McCurdy, in view of Numoto and Ruiz Gonzalez, such that it would provide the toy of McCurdy with the concept of the aforementioned limitations for the purpose of providing a stronger and more secure attachment means for the appendages and body of the toy.

Additionally, it would have been an obvious matter of design choice to modify the size of the ribs to be approximately 0.75mm wide and 0.75mm deep and have a diameter of approximately 9.75mm, and to modify the diameter of the planar surfaces of the body and appendage to be approximately 21mm and 19mm, respectively, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Furthermore, there is no criticality for these limitations anywhere in the specification of the present invention (see pgs. 13 and 14, lines 24-26 and 1-4, respectively).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA
04/16/2004

A handwritten signature in black ink, appearing to read 'D. Banks', with a stylized flourish extending to the right.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700